

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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MARIA LAURA TOMA, : X  
Plaintiff, : 15-CV-6047 (ARR) (RER)  
-against- : NOT FOR ELECTRONIC  
DEPARTMENT OF HOMELAND SECURITY : OR PRINT PUBLICATION  
and FEDERAL BUREAU OF INVESTIGATION, :  
Defendants. : OPINION & ORDER  
X

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ROSS, United States District Judge:

On October 21, 2015, pro se plaintiff Maria Laura Toma brought this action against the Department of Homeland Security and the Federal Bureau of Investigation under 42 U.S.C. § 1983. See Compl., Dkt. #1. Plaintiff subsequently filed a motion seeking an order to show cause for a temporary restraining order and preliminary injunction, which this court denied by order dated October 28, 2015. See Order, Dkt. #5. Plaintiff has filed another motion for a restraining order. See Notice of Mot., Dkt. #8. For the reasons set forth below, plaintiff's motion is denied.

The court assumes familiarity with the factual and procedural background of this action, which it sets forth in its prior order. See Order, Dkt. #5. Plaintiff's second motion for a temporary restraining order seeks the same emergency relief previously denied by this court. Specifically, plaintiff asks the court to issue an order (1) removing plaintiff "from a watch/follow up/surveillance list" that she claims the defendants administer, and (2) restraining defendants from "tak[ing] further action against [her] in the way that [plaintiff] describe[s] it in the complaint." Notice of Mot., Dkt. #8, at 2.

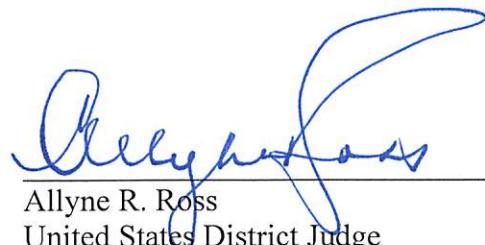
Rule 65(b) of the Federal Rules of Civil Procedure permits courts to issue temporary restraining orders in limited circumstances. See Fed. R. Civ. P. 65(b). “It is well established that the standard for an entry of a temporary restraining order is the same as for a preliminary injunction.” AFA Dispensing Grp. B.V. v. Anheuser-Busch, Inc., 740 F. Supp. 2d 465, 471 (S.D.N.Y. 2010). Under that standard, the movant has the burden to establish “(1) irreparable harm in the absence of the injunction and (2) either (a) a likelihood of success on the merits or (b) sufficiently serious questions going to the merits to make them a fair ground for litigation and a balance of hardships tipping decidedly in the movant’s favor.” Cnty. of Nassau, N.Y. v. Leavitt, 524 F.3d 408, 414 (2d Cir. 2008) (quoting NXIVM Corp. v. Ross Inst., 364 F.3d 471, 476 (2d Cir. 2004)).

Nothing in the instant motion alters this court’s conclusion that plaintiff has failed to meet that burden. Specifically, plaintiff’s motion does not address the deficiencies in her complaint that prevent her from demonstrating a likelihood of success on the merits or even sufficiently serious questions going to the merits. Accordingly, for all the reasons provided in the October 28, 2015 order, this court concludes that plaintiff is not entitled to the emergency relief she seeks.

## **CONCLUSION**

This court hereby denies without a hearing plaintiff’s motion for a temporary restraining order. Although plaintiff has paid the filing fee to commence this action, the court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore in forma pauperis status is denied for the purpose of an appeal. Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.



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Allyne R. Ross  
United States District Judge

Dated: Brooklyn, New York  
November 5, 2015